

February 7, 2011 - Regular Town Council Meeting

At a Regular Meeting of the Town Council of the Town of Middletown, RI held at the Middletown Town Hall on Monday, February 7, 2011 at 6:00 P.M.

Council President Arthur S. Weber, Jr.

Vice President Bruce J. Long

Councillor Richard Cambra

Councillor Edward J. Silveira, Jr.

Councillor Christopher T. Semonelli

Councillor Antone C. Viveiros

Councillor Barbara A. VonVillas, Members Present

PLEDGE OF ALLEGIANCE TO THE FLAG

RECONSIDERATION

The Middletown Town Council follows the codification of present-day general parliamentary law as articulated in Robert's Rules of Order Newly Revised 10th edition (2000), together with whatever rules of order the Council has adopted for its own governance. The motion to reconsider is one of the motions that can bring a question again before an assembly, and is designed to bring back for further consideration a motion which has already been voted on:

If, in the same session that a motion has been voted on, but no later than the same day or the next day on which a business meeting is held, new information or a changed situation makes it appear that a different result might reflect the true will of the assembly, a member who voted with the prevailing side can, by moving to Reconsider [RONR (10th ed.), p. 304-321] the vote, propose that the question shall come before the assembly again as if it had not previously been considered. (From Robert's Rules of Order Newly Revised In Brief, Robert, Evans et al., De Capo Press, 2004)

There were no reconsiderations.

EXECUTIVE SESSION

Pursuant to provisions of RIGL, Sections 42-46-2., 42-46-4., and 42-46-5. (a) (5) lease – (JFK School) and (2) Collective Bargaining (Police, Fire, Public Works and Town Hall Unions).

On motion of Vice President Long, duly seconded, it was voted unanimously to recess open session at 6:03 P.M. and reconvene in executive session.

On motion of Vice President Long, duly seconded, it was voted unanimously to reconvene in open session at 7:00 P.M.

Town Administrator Shawn Brown recused himself from acting on the

JFK lease (south end of the building), due to a possible conflict of interest.

On motion of Vice President Long, duly seconded, it was voted unanimously to authorize the Finance Director to pursue and execute leases for JFK School subject to review by the Town Solicitor's Office, on the north end of the building (8 classrooms) and the south end of the building.

On motion of Vice President Long, duly seconded, it was voted unanimously to seal the minutes of the executive session pursuant to Section 42-46-7. RIGL.

Councillor VonVillas recognized the Police Department for keeping the Middletown roads safe. Ms. VonVillas noted that in a recent news report the Police department was number four in the state for DUI convictions, totaling 122.

PUBLIC FORUM SESSION

Pursuant to Rule 23 of the Rules of the Council, Citizens may address the town on one (1) subject only, said subject of substantive Town business, neither discussed during the regular meeting nor related to personnel or job performance. Citizens may speak for no longer than five (5) minutes and must submit a public participation form to the Council Clerk prior to the start of the meeting.

Manuel Mello, 31 Beacon Terrace North, addressed the Council expressing concern that the Public Works facility is not handicap accessible.

PRESENTATIONS

- 1. Memorandum of the Citizens Memorial Committee, re: Presentation of Hall of Fame Plaque.**

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

M. Theresa Santos, Chair of the Citizens Memorial Committee, addressed the Council presenting the Hall of Fame plaque, with the addition of twelve names. Ms. Santos explained that each of the individuals have left their footprint on the Town and read the following names with position held within the community entered here:

Councillor Silveira expressed his appreciation for the recognition of his grandfather, Thomas J. Rodrigues.

Joanne Benner, 3 Namquid Drive addressed the Council expressing her appreciation for recognizing Arthur Benner noting that Middletown was his passion.

Council President Weber noted that Arthur Benner was a gentlemen

and helpful to all.

John Silvia, 118 Union Street, expressed his appreciation to the citizens of the Town for recognizing his grandfather John A. Silvia also known as “Johnny Cake”. Mr. Silvia noted that Johnny Cake Hill was named after his grandfather.

Paul Lamond, 2 Porter Road, addressed the Council recognizing Arthur Benner and Stanley Grossman. Mr. Lamond noted that both men were proud to serve the Town of Middletown.

Mike Allen, Retired Middletown Police Detective, 45 Harvey Road, noted that he was the great grandson of Chief Arthur Albro and was honored to attend the presentation on behalf of his family.

Nancy Bloomfield Arthur, 506 Point Drive, Greensburg, PA, noted that her great grandfather was James Bloomfield who was the first Police Chief for the Town of Middletown. Ms. Arthur expressed her

appreciation for the recognition of her great grandfather.

Florence Higgins, 104 Peckham Lane, addressed the Council noting that her husband was James Higgins, Public Works Director. Ms. Higgins explained that Mr. Higgins would be proud of this recognition by the Town and expressed her gratitude.

John Michael Skaggs, 4 Wood Terrace addressed the Council on behalf of his family expressing appreciation for the recognition of his father in law Frank Campagna.

Holly Nobert, 749 Jepson Lane, addressed the Council expressing thanks for the recognition of her grandfather Thomas J. Rodrigues.

Gail Greenwood, 308 Forest Avenue, recognized Arthur Benner for his contributions to the Town of Middletown.

M. Theresa Santos shared her experiences regarding Charles C. Roberts, John F. Fitzgerald, Thomas J. Rodrigues, Stanley Grossman, Frank C. Campagna and John Silvia.

Vice President Long noted that he was proud to have known and worked with many of the individuals recognized this evening.

CONSENT

Council President Weber requested that item #4 be rescheduled to the February 22, 2011, Regular Meeting of the Council.

2. Approval of Minutes, re: Regular Meeting, January 18, 2011.

On motion of Vice President Long, duly seconded, it was voted unanimously to approve said minutes.

3. Petitions received from the following named persons for perpetual care of burial lots in the Middletown Cemetery:

- a. William S. Bailey, Jr. and Isabelle M. Bailey – Section 47 West, Lots 27, 28, 29, 30, 31 & 32**
- b. Joanne Benner - Section 54, Lots 4 & 5**
- c. Gerald C. Browe – Section 54, Lots 6 & 7**
- d. Barbara Dunn – Section 54, Lot 38**
- e. Patrice McKinley – Section 52 West, Lots 28 & 29**
- f. Barbara Risso – Section 54, Lot 34**
- g. James H. Stearns, Jr. – Section 50 East, Lots 108 & 109**

On motion of Vice President Long, duly seconded, it was voted

unanimously to approve said petitions.

4. Resolution of the Town of Jamestown, re: In Support of Extended Producer Responsibility.

On motion of Vice President Long, duly seconded, it was voted unanimously to continue this item to the next regular meeting of the Council to be held on February 22, 2011.

5. Resolution of the Town of South Kingstown, re: In Support of the efforts to bring the America's Cup Challenge back to Newport.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said resolution.

6. Communication of Christopher Gray, Chairman, LNG Working

Group, re: Requesting support for the latest initiative to prevent a liquefied natural gas terminal from permanently disfiguring Narragansett Bay and damaging the regional economy.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.

7. Communication of Steven P. Rodrigues, President, Middletown Fire Fighters Association, Local 1933, re: Notification of the unions desire to start collective bargaining for fiscal year 2011-2012.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.

8. Memorandum of Town Administrator, with enclosures, re: Financial Statements for period ending December 31, 2010.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum and Financial Statements.

9. Communication of Sewer Assessor, re: Cancellation of Taxes for certain Middletown Taxpayers.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.

10. Resolution of the Council, re: Cancellation of Taxes for certain Middletown Taxpayers.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

11. Communication of Tax Assessor, re: Cancellation of Taxes for certain Middletown Taxpayers.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication.

12. Resolution of the Council, re: Cancellation of Taxes for certain Middletown Taxpayers.

On motion of Vice President Long, duly seconded, it was voted unanimously to pass said resolution.

13. Proposed Budget Meeting Schedule.

On motion of Vice President Long, duly seconded, it was voted unanimously to approve said proposed Budget Meeting Schedule.

LICENSES

14. Applications from the following named persons, firms or corporations for a Special Event Permit. (See attached list)

Councillor Viveiros requested information regarding fees charged by the Town for campground/recreation fees.

On motion of Vice President Long, duly seconded, it was voted unanimously to grant said Special Event Permits.

Vice President Long recused himself from action on the following item # 15 of business, due to a possible conflict of interest.

15. Applications from the following named persons firms or corporations for a Special Event Permit. (See attached list including requests for permit fees to be waived)

Councillor Cambra suggested not waiving permit fees, due to budget restraints.

Councilor VonVillas noted that Newport Polo withdrew their request to waive the permit fee.

On motion of Councillor Silveira, duly seconded, it was voted to grant said special events permits and waive said permit fees; Councilor Semonelli voted YES to said motion; Council President Weber and Councillors Cambra, Silveira, Viveiros and VonVillas voted NO; MOTION FAILED TO PASS.

On motion of Councillor Semonelli, duly seconded, it was voted to grant said special events permits and not waive said permit fees;

Councillor Semonelli voted NO to said motion.

ORDINANCES

Councillors Silveira and Viveiros recused themselves from acting on the following item #16 of business, due to a possible conflict of interest.

16. Communication of Joseph R. Palumbo, Jr., Esquire, re: Request to withdraw Petition of CVD II, LLC for rezoning Assessors Plat 111, Lots 8, 9, 9A, 10.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said communication and approve said withdrawal.

17. Continued from Regular Meeting, October 18, 2010

Continued from Regular Meeting, August 16, 2010

Public Hearing (Advertised; Abutters Notified)

An Ordinance of the Town of Middletown (First Reading)

An Ordinance in amendment to the Town Code of the Town of Middletown,

Chapter 152, Zoning Code, reclassification of Lots 8, 9, 9A and 10, TAP 111 from Light Industry (LI) to new zoning district General Business A (GBA). (Planning Board recommendation attached)

NO ACTION TAKEN – WITHDRAWN BY PETITIONER

James Marshall, Newport, RI, addressed the Council expressing concern to a change in the zoning ordinance for the Omni Drive property, noting concern for the Bailey Brook watershed area.

Councillor Cambra inquired if protection needs to be placed in the Bailey Brook area.

Town Solicitor Michael W. Miller explained that there are protections in place for watershed areas.

Gail Greenwood, 308 Forest Avenue, noted that the Omni project has been ongoing. Ms. Greenwood also expressed concern for the watershed area.

18. Memorandum of Town Administrator, re: Amendments to Social Host Ordinance.

Town Administrator Shawn Brown reviewed the memorandum entered here:

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

19. An Ordinance of the Town of Middletown (First Reading)

An Ordinance in amendment to the Town Code of the Town of Middletown, Title XIII, Chapter 130 General Offenses, Section 130.01 Possession, Consumption by Minors Prohibited and Section 130.99 Penalty.

Vice President Long suggested that the penalty for not completing the alcohol awareness program be place back into the ordinance.

On motion of Vice President Long, duly seconded, it was voted unanimously to insert under section 130.99 Penalty #4 Any person who fails to complete the mandatory alcohol awareness program shall be subject to a \$350. fine” and change #4 to #5.

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said ordinance, as amended, on its first reading.

TOWN COUNCIL COMMUNICATIONS

Councillor Cambra recused himself from acting on the following item of business #20, due to a possible conflict of interest.

20. Memorandum of Councillor VonVillas, with enclosures, re: U.S. Navy Wind Turbines.

Councillor VonVillas reviewed the following memorandum entered here:

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

Councillor VonVillas requests a resolution of support be prepared to demonstrate Middletown's commitment to Naval Station Newport.

Councillor Viveiros suggests waiting until the Environmental Impact Study is complete before passing a resolution.

Councillor Silveira noted his agreement with the content of the memorandum with the exception of passing a resolution.

Councillor Semonelli explained that time needs to be allowed to complete the studies.

Vice President Long reviewed the US Navy study timetable entered here:

Mr. Long suggests tabling the issue.

On motion of Vice President Long, duly seconded, it was voted unanimously that the issue of passing a resolution either for or against not be taken up earlier than the completion of the Environmental Assessment Study by the US. Navy's timetable, which is due August 2011.

21. Memorandum of Town Administrator, re: Regionalization – New England School Development Council – Educational Benefits and Cost Savings Report.

Town Administrator Shawn Brown reviewed the memorandum entered here:

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

Mr. Brown noted his concern with the Town's quality of life being affected by closing the Middletown High School.

22. Memorandum of Councillor VonVillas, re: NESDEC Educational Study – Phase I.

Councilor VonVillas reviewed the memorandum entered here:

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

Discussion centered around the funds used for the study not used to research the educational benefits of the students, a non-binding referendum placed on a ballot for the voters to support or oppose regionalization within Middletown, conducting a workshop on regionalization, the need for regionalization to be equal for all cities

and towns effected, the Town Council President approaching other communities concerning regionalization and to put a hold on Phase II of the NESDEC Educational study.

On motion of Vice President Long, duly seconded, it was voted unanimously that the Middletown Town Council finds the NESDEC Educational Study, Phase I report totally unacceptable.

Councillor Silveira left the meeting at 8:35 P.M.

23. Memorandum of Vice President Long, re: Boards and Committees.

Vice President Long reviewed the following memorandum entered here:

On motion of Vice President Long, duly seconded, it was voted unanimously to receive said memorandum.

Councillor Cambra requests the entire committee process be reviewed.

Councillor Viveiros noted that boards and committees are an important function of the Town.

Councillor VonVillas noted her opposition explaining that the process should not be reviewed committee by committee.

Council President Weber suggested that all the boards and committees be reviewed.

On motion of Vice President Long, duly seconded, it was voted

unanimously that the Council, collectively interview applicants wishing to be appointed to the Zoning and Planning Boards; Council may waive the requirement for reappointments; all new applicants shall be interviewed prior to appointment.

TOWN ADMINISTRATOR COMMUNICATIONS

24. Memorandum of Town Administrator, with enclosures, re: Award of contract – Fire Department Rescue Vehicles.

On motion of Vice President Long, duly seconded it was voted unanimously to receive said memorandum.

Town Administrator Shawn Brown reviewed the following memorandums enter here:

25. Resolution of the Council, re: Award of contract – Fire

Department Rescue Vehicles.

On motion of Vice President Long, duly seconded it was voted unanimously to pass said resolution.

26. Memorandum of Town Administrator, re: Authorization to Submit Department of Behavioral Health, Development Disabilities & Hospitals' Block Grant.

On motion of Vice President Long, duly seconded it was voted unanimously to receive said memorandum and authorize submission of said grant application.

27. Resolution of the Council, re: Requesting local legislation for pension reform.

On motion of Councillor Viveiros, duly seconded it was voted unanimously to pass said resolution.

OTHER COMMUNICATIONS

28. Communication of the St. Patrick's Day Parade Committee, re: Request for support by placing an ad in the Parade Bulletin or donating to the parade committee.

On motion of Vice President Long, duly seconded it was voted unanimously to receive said memorandum.

On motion of Councillor Viveiros, duly seconded it was voted to place a ½ page ad in the St. Patrick's Day Parade Bulletin (\$130.00) to be appropriated from the President's Discretionary Fund; Councillor Semonelli voted NO to said motion.

APPOINTMENTS TO BOARDS AND COMMITTEES

29. Appointment of three (3) members to the Roads and Utilities Advisory Committee for terms expiring January 2014.

On motion of Vice President Long, duly seconded, it was voted unanimously to reappoint John A. Marshall, John R. Mello and Julian F. Peckham IV for terms expiring January 2014.

30. Appointment of three (3) Council members to the Joint Workgroup.

On motion of President Weber, duly seconded, it was voted unanimously to appoint Council President Weber, Vice President Long and Councillor VonVillas to the Joint Workgroup.

On motion of Vice President Long, duly seconded, it was voted

unanimously to adjourn said meeting at 8:50 P.M.

Wendy J.W. Marshall, CMC

Council Clerk

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